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I am very pleased to present this *Best Practices Manual on Interpreters in the Minnesota State Court System*. The Minnesota Supreme Court Interpreter Advisory Committee has compiled this Manual to guide judges and court administrators in appointing qualified interpreters and using them effectively in court. The Best Practices Manual:

- describes when the court is required to appoint and pay for interpreters
- defines a “qualified” court interpreter
- provides guidelines for court administrators to perform initial screening of interpreters
- provides points to consider in employment arrangements
- recommends a model voir dire for judges to establish the interpreter’s qualifications for appointment
- offers suggestions for appropriate and efficient use of interpreters in court proceedings

While this Manual is not legally binding, it is an important step toward achieving our statewide goal of providing equal access to justice. The Supreme Court Interpreter Advisory Committee will periodically update the Manual. Feel Free to direct questions or comments to Helen Boddy, Coordinator of the Minnesota Court Interpreter Program.

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State Court Administrator

1. INTRODUCTION

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Minnesota law declares it to be “the policy of this State that the constitutional rights of persons handicapped in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings.”¹ In its Final Report, the Minnesota Supreme Court Task Force on Racial Bias in the Judicial System recognized that Minnesota’s non-English-speaking population is growing rapidly, making it increasingly challenging for the criminal justice system to meet constitutional requirements of fundamental fairness and equal protection. The Report stated that Minnesota was not adequately providing competent court interpretation for many persons with limited English skills. This lack of adequate interpretation was of great concern in that it resulted in the denial of equal access to the courts, not only for non-English speaking individuals, but also for the hard-of-hearing. Important findings are taken from the *Minnesota Supreme Court Task Force on Racial Bias in the Judicial System, Final Report May 1993*, as follows:

- Citizens with limited English-speaking skills have the same rights and protections as any other citizen involved in the court system in either civil or criminal matters.
- Federal and state laws make clear the belief that accurate, high-quality translation (interpretation) is a fundamental requisite of due process.
- In Minnesota, notwithstanding the existence of a strong statute governing the management of this issue, . . . there is much to be done and a long way to go before full compliance with existing law can be achieved.
- This extremely important and fundamental issue has been allowed to become a “step child” of the justice system; understudied, underfunded, and in terms of its ultimate impact, little understood.

The Task Force concluded that our appellate courts must set a standard of excellence by condemning prejudice in any form and by insisting upon proper procedures and competent interpreters in our courts. The stakes are too high to settle for mediocrity.

To fulfill its commitment to equal access to justice, in 1994 the Minnesota Supreme Court established the Interpreter Advisory Committee and created the Court Interpreter Training and Certification Program funded by the legislature. Based upon recommendations from the Advisory Committee, the Supreme Court promulgated Rule 8 of the General Rules of Practice for the District Courts; the Code of Professional Responsibility for Interpreters in the Minnesota State Court System; and Rules on Certification of Court Interpreters. To implement training and certification requirements, the Court Interpreter Program offers an "Orientation Program" on court interpreting and advanced skill development courses in specific foreign languages. It also administers a written test on the code of ethics and issues certification to interpreters who pass rigorous legal interpreting proficiency exams. Pursuant to Rule 8, the Office of State Court Administration maintains and publishes a Statewide Roster of Court Interpreters eligible to work in the state court system.

¹ Minn. Stat. § 611.30 (1998)

The developments listed above are described in detail within this Manual. A further history of court interpreting in Minnesota is outlined in Roberta Cordano's article in *Bench & Bar of Minnesota*, entitled "Jus Comprehendii: Access to Justice for Non-English Speakers." **(See Appendix I.)**

2. DEFINITION OF TERMS

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Technical terms used throughout this Manual are defined and explained below. Terms are not presented alphabetically. They are arranged in an order that is more suitable for readers to learn the fundamentals of interpreting concepts, terminology, and procedure.

Non-English-Speaking Person

“Non-English speaking person” is used to refer to any person who is unable to communicate in English or who has a limited ability to communicate in English. The term also applies when the language limitation arises due to deafness or being hard of hearing. The term generally refers to a principal party in interest or a witness in the case.

Source Language

Source language is the language of the original speaker. “Source language” is thus always a relative term, depending on who has spoken last.

Target Language

Target language is the language of the listener, the language into which the interpreter is communicating the meaning of the words spoken in the source language.

Interpretation

Interpretation means the unrehearsed transmitting of a spoken or signed message from one language to another. Interpretation is distinguished from “translation,” which relates to written language (see below). Two modes of interpretation are commonly used in court by qualified interpreters: “consecutive” and “simultaneous” interpretation. A third mode, less frequently used in court, is “sight interpretation” or “sight translation” of documents. (These terms are also defined below.)

Translation

Translation is converting a written text from one language into written text in another language. The source of the message being converted is always a written language. Translation requires different skills than those used by an interpreter.

Sight Interpretation/Sight Translation

Sight interpretation is sometimes referred to as “sight translation.” Sight translation is a hybrid type of interpreting/ translating whereby the interpreter reads a document written in one language while converting it orally into another language. In this mode of interpreting, a written text is rendered orally without advance notice and on sight.

Consecutive Interpreting

Consecutive interpreting is rendering statements made in a source language into statements in the target language intermittently after a pause between each completed statement in the source language. In other words, the interpreter renders an interpretation after the speaker has stopped speaking. When using this mode of interpreting, it may be necessary for the interpreter to signal a speaker to pause to permit a consecutive interpretation when the length of the utterance approaches the outer limits of the interpreter's capacity for recall. During consecutive interpreting, the interpreter should take notes to assist him/her in rendering the interpretation.

Simultaneous Interpreting

Simultaneous interpreting is rendering an interpretation continuously at the same time someone is speaking. Simultaneous interpreting is intended to be heard only by the person receiving the interpretation and is usually accomplished by speaking in whispered tones or using equipment specially designed for the purpose in order to be as unobtrusive as possible.

Summary Interpreting

Summary interpreting is paraphrasing and condensing the speaker's statement. Unlike simultaneous and consecutive interpreting, this method does not provide a precise rendering of everything that is said into the target language. This is a mode of interpreting that should not be used in court settings.

Literal Interpretation/Translation

To interpret/translate literally means to convey the primary surface meaning of the source word while preserving the word order and parts of speech of the source language. This means that context plays no role in providing cues to what an utterance means or how it should be interpreted/translated. It also means that the word order of the source language is imposed upon the target language. Finally, meaning embedded in idioms, for example, is completely lost, unless the target language has exactly the same idiom with the same word order. A literal interpretation/translation is so bound by the source language that renderings in the target language will often be completely unintelligible, not to mention unfaithful to the source language. Lawyers and judges sometimes ask for a literal interpretation without realizing what they would get. An accurate, or "proper interpretation" (defined below) should be requested.

Verbatim Interpretation/Translation

To interpret/translate verbatim means to convey the real meaning of the source while preserving the word order of the source language. While lexical meaning is accurately preserved, meaning that is embedded in grammar may interfere with the interpretation/translation. Verbatim interpretation/translation is a significant improvement over the literal approach because lexical and contextual meanings are preserved. However, since the word order of the source language is being imposed on

the natural grammar of the target language, it may sound stilted, awkward, and may from time to time introduce confusion or even misunderstanding. Instead of asking for a verbatim interpretation, judges and lawyers should request a "proper interpretation" that is complete, i.e., leaves nothing out (see below).

Proper Interpretation/Translation

To interpret/translate properly means to convey the real meaning of the source language communication, preserving all aspects of meaning, with the natural grammar of the target language. To interpret/translate properly, one has no concern for literal meanings or following the word order (or even the number of words) of the source language. The goal is to enable the recipient of the interpretation/translation to hear (or see, in the case of deaf or hard-of-hearing recipients) the source message as if it had been communicated in the recipient's language in the first place.

Exotic Language

Exotic language is a term used in court interpreting to refer to a language in which interpreters, translators, or bilinguists are not readily available, or in which no standard of quality has been established.

Register

The degree of formality attributed to a word or phrase in regard to its usage. For example, the term “dope,” meaning “drugs,” is informal or of a low register, and should have an equivalent term in the other language. Moreover, the translation of both words should not produce a word applicable to the two.

TERMINOLOGY RELATED TO INTERPRETING FOR DEAF AND HARD OF HEARING PERSONS

Note - More definitions and explanations of interpreting for deaf and hard of hearing persons are contained in the appendix. **(See Appendix J, "Court Interpreting for Deaf Persons: Culture, Communication, and the Courts"; pp. J-8 - J-14.)**

ASL “American Sign Language”

American Sign Language is a visual-gestural language created by deaf people and used by approximately one-half million deaf Americans and Canadians of all ages.

Interpretation

In the context of interpretation for the deaf, this term refers to conveying the real meaning communicated between American Sign Language and spoken English.

Transliteration

This term refers to the act of representing the English language in a visually accessible form of communication. This method closely follows the grammar and structure of spoken English through the use of manual coding. Manually coded English (also known

as “signed English”) is not a true language. Use of this system necessitates having a viewer who knows English well.

RID “Registry of Interpreters for the Deaf”

The National Registry of Interpreters for the Deaf (“NRID”) is a professional organization of American Sign Language/English interpreters and transliterators. The organization is dedicated to the professional development, training and certification of its members.

Sign Language Terms in Rule 8 of the General Rules of Practice for the District Courts

“Non-Certified” Sign Language Court Interpreters (On the Statewide Roster)

Rule 8 refers to sign language interpreters on the Statewide Roster as “non-certified” because exams for state court certification in sign language have not yet been developed by the State Court Interpreter Certification Consortium or approved by the State Court Administrator. Nonetheless, sign language interpreters must possess certification from RID that has been approved by the State Court Administrator, in order to be listed on the Statewide Roster.

The Minnesota State Court Administrator has approved the following RID generalist certificates as meeting the requirement in Rule 8.01(c) for sign language interpreters to be included on the Statewide Roster:

CI and CT “Certificate of Interpretation and Certificate of Transliteration”

CI - Holders of this certificate have demonstrated the ability to interpret between American Sign Language and spoken English in both sign-to-voice and voice-to-sign.

CT – Holders of this certificate have demonstrated the ability to transliterate between signed English and spoken English in both sign-to-voice and voice-to-sign.

CSC “Comprehensive Skills Certificate”

Holders of this certificate have demonstrated the ability to interpret between American Sign Language and spoken English and to transliterate between spoken English and signed code for English. (The CI and CT is the replacement for the CSC).

CDI(P) “Certified Deaf Interpreter (Provisional)”/Relay Interpreter

Holders of this provisional certificate are interpreters who are deaf or hard-of-hearing and who have demonstrated a minimum of one year experience working as an interpreter, completion of at least 8 hours of training on the RID Code of Ethics, and 8 hours of training in general interpretation as it relates to the interpreter who is deaf or hard-of-hearing. Provisional certification is valid until one year after the CDI examination (in development) is made available. A Certified Deaf Interpreter (defined above) is sometimes called an intermediary or “relay” interpreter because the deaf interpreter works in tandem with a hearing interpreter to relay information between a deaf individual with complex or idiosyncratic speech characteristics and the hearing interpreter.

The State Court Administrator has recognized the “Legal Specialist Certificate” (SC:L) as the highest level of certification currently available from RID for sign language interpreters and transliterators in legal settings. RID recommends that interpreters working in legal settings hold the SC:L. Sign language interpreters who possess this RID certificate are noted on the Statewide Roster.

SC:L “Legal Specialist Certificate”

Holders of this specialist certificate have demonstrated both intellectual and practical knowledge of legal settings by passing rigorous written and performance examinations. Generalist certification and documented training and experience are required prior to sitting for the SC:L exam. Possession of the SC:L indicates entry level legal interpreting competence. Holders of the SC:L should be considered more qualified to interpret in legal settings than those holding generalist certificates only.